UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2002/NGO/64
31 January 2002

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 6 of the provisional agenda

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Written statement* submitted by the Asian Legal Resource Centre (ALRC), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201048O*

ENG

Caste Discrimination in Asia

1. Caste-based discrimination, which takes place in a number of parts of the world, stipulates unequal social status based on birth. The largest segment of people discriminated by caste are in South Asia, but the Buraku people of Japan are treated similarly. Despite many condemnations of caste, it remains one of the most inhumane denials of human dignity. It not only violates various provisions of the Universal Declaration of Human Rights (UDHR): it goes to the heart of the notion of human rights itself. Whereas the notion of human rights presupposes equality, caste negates equality. Thus in dealing with this issue the international community should not treat it as just another problem, but as a fundamental challenge to the universality of human rights itself.

2. The Asian Legal Resource Centre welcomes the working paper by Mr. Rajendra Kalidas Wimala Goonesekere on the topic of discrimination based on work and descent submitted to the 53rd Session of the Sub-Commission on the Promotion and Protection of Human Rights in 2001 pursuant to Sub-Commission resolution 2000/4 (E/CN.4/Sub.2/2001/16), and also welcomes the 15 August 2001 decision number 2001/110 of the Sub-Commission at its 53rd Session to entrust Mr. Goonesekere with the preparation of an expanded working paper on the topic of discrimination based on work and descent in other regions of the world (E/CN.4/SUB.2/DEC/2001/110).

3. In spite of the above initiatives, sadly the international community has contributed little to the struggle for the elimination of caste. Perhaps one of the reasons is that modern western civilization cannot comprehend such a deep form of discrimination persisting into this era. Caste divisions have lasted for thousands of years and therefore have cemented habits of division among people. Even those given the task of eradicating caste discrimination through political power are themselves without choice victims of these divisions. Therefore, outside intervention should not only be welcomed but is also necessary.

4. International misunderstanding is contributed to by caste discrimination's concealed character, known only to those intimately associated with it in countries where it is practiced. Furthermore, the spokespersons for the upper castes enjoy an enormously privileged position compared to the so-called lower caste or outcaste representatives. The September 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) failed to effectively address and reach an international consensus on a position on regarding caste discrimination due to the efforst of these people. Notwithstanding, the issue drew much concern and publicity through the WCAR NGO Forum Declaration, which resolved:

> 84. Work and descent based discrimination, including caste discrimination and untouchability, being a historically entrenched, false ideological construct sanctioned by religion and culture, which is hereditary in nature and affects over 300 million people in the Asia Pacific and African regions at the personal, social and structural levels, irrespective of their religious affiliation;
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> 85. The practice of untouchability, rooted in the caste system, stigmatises 260 million Dalits in South Asia as 'polluted' or 'impure', thereby denying them entry into places of religious worship, participation in religious festivals, assigning them menial and degrading work including cleaning toilets, skinning and disposal of dead animals, digging graves and sweeping, and the forced prostitution of Dalit women and girls through the traditional system of temple prostitution (Devadasi);
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> 86. The system of 'Hidden apartheid' based on caste practices of distinction, exclusion and restrictions denies Dalits' enjoyment of their economic, social,

political, cultural and religious rights, exposing them to all forms of violence and manifests itself in the segregation of housing settlements and cemeteries, segregation in tea stalls ('two-cup' system), denial of access to common drinking water, restaurants, places of worship, restrictions on marriage and other insidious measures all of which inhibit their development as equals;

87. Caste discrimination and 'untouchability' practised against generations of Dalits for centuries together amounts to systemic 'generational and cultural Daliticide', which is the mass-scale destruction of their individual and collective identity, dignity and self-respect for generations through cultural methods and practices;

88. Any action or even any sign of an attempt to act by Dalits either individually or collectively to assert their rights is met with extreme measures of violence such as burning or destruction of their homes, property and crops, social boycott, rape or gang rape of Dalit women and murder by dominant caste individuals or groups, police or the bureaucracy, and that in such instances the State often acts with impunity and in connivance with these perpetrators;

89. Work and descent based discrimination against the Buraku people of Japan has existed for over 400 years and continues to be experienced today by over 3 million people in relation to marriage, employment and education, with new forms of discrimination emerging such as discriminatory propaganda and incitement to discrimination against them, especially on the Internet;

90. The vulnerability of the victims of work and descent based discrimination, including caste discrimination and untouchability, is aggravated by legal systems and law enforcement machinery that fail to protect them and hence are responsible for the continued perpetuation of discrimination, and by States that are themselves often the law-breakers.

5. Thus there exists a gulf between world public opinion, which is increasingly more articulate on behalf of those who suffer caste discrimination, and the international community, which has not yet dealt with this issue in any significant way. Accordingly, the Asian Legal Resource Centre urges all UN agencies—particularly the Office of the High Commissioner for Human Rights, Commission on Human Rights and the Sub-Commission on the Promotion and Protection of Human Rights—to take a more proactive stance on the issue of caste-based discrimination, in keeping with the moral obligation owed to the victims of caste.

6. In March 2001 the Attorney General of India remarked, "It is undeniable that, despite constitutional and legal provisions, caste-based discrimination in our country persists and is pervasive and strong effective measures are needed to stamp out this evil". While other prominent persons have expressed similar views the problem is that the government has not spelled out necessary effective action. Although India has many laws against caste-based atrocities, these laws have been neglected. A major cause for the lack of their implementation is that the higher officers in charge of their implementation are very often from the upper castes. The Asian Legal Resource Centre submits that the Commission and other UN agencies have a legitimate interest in monitoring the implementation of these laws. The appointment of a special rapporteur for monitoring of the enforcement of laws against caste discrimination should not be seen as in any way hostile to the countries suffering from this problem. The appointment of a rapporteur would facilitate the flow of international support to improve the legal protection to those who suffer such discrimination.

Finally, in recent years the international community has discussed the issue of poverty eradication. The victims of caste discrimination in South Asia and elsewhere are among the poorest people in the world. International financial agencies engaged in poverty eradication should consider it a priority to assist those suffering caste discrimination. Where foreign debt is cancelled, available funds should be directed to uplifting those who suffer caste discrimination.